

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BUFFALO TRANSPORTATION, INC.,

Plaintiff,

v.

FREZER BEZU, doing business as
Buffalo MD Transportation,

Defendant.

16-CV-1032
DECISION & ORDER

On December 22, 2016, the plaintiff, Buffalo Transportation, Inc. (“Buffalo Transportation”), filed a complaint alleging unfair competition under § 43 of the Lanham Act, 15 U.S.C. § 1125; trademark infringement under New York common law; unfair competition under New York common law; trademark dilution under New York General Business Law § 360-l; deceptive business practices under New York General Business Law § 349; and use of name with intent to deceive under New York General Business Law § 133. Docket Item 1. On June 6, 2017, Buffalo Transportation moved for a default judgment against the defendant, Frezer Bezu. Docket Item 7.

On March 22, 2019, this Court granted Buffalo Transportation’s motion for a default judgment and referred this case to United States Magistrate Judge Hugh B. Scott to issue a Report and Recommendation (“R&R”) on damages, lost profits, attorneys’ fees, and costs. Docket Item 13. This Court also ordered Frezer Bezu to “render an accounting, pursuant to 15 U.S.C. § 1117, of all profits derived from sales of any kind made as a result of its infringing actions,” and ordered Buffalo Transportation

to “offer proof of any damages, attorney[s] fees, and costs claimed in connection with this matter before Judge Scott.” Docket Item 13 at 17-18.

On January 14, 2020, Buffalo Transportation filed a motion for damages. Docket Item 23. More specifically, Buffalo Transportation requested “treble damages in the amount of \$321,041.04, together with attorneys’ fees and costs in the amount of \$11,536.00.” Docket Item 23-1 at 14. Frezer Bezu did not respond to Buffalo Transportation’s motion, nor did it submit the accounting ordered by this Court.

On February 19, 2020, Judge Scott issued a R&R finding that Buffalo Transportation’s motion should be granted. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott’s R&R as well as the submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott’s recommendation to grant Buffalo Transportation’s motion and award \$321,041.04 in damages, \$490.00 in costs, and \$11,046.00 in attorneys’ fees. See Docket Item 26 at 12.

For the reasons stated above and in the R&R, Buffalo Transportation's motion for damages, Docket Item 23, is GRANTED, and the Court hereby awards Buffalo Transportation \$321,041.04 in damages, \$490.00 in costs, and \$11,046.00 in attorneys' fees. The Clerk of the Court shall enter judgment and close the file.

SO ORDERED.

Dated: April 7, 2020
Buffalo, New York

s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE